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KED & ASSOCIATES, LLP P.O. Box 221200 Chantilly, VA 20153-1200				VAN HANDEL, MICHAEL P
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SANG O. PARK

Appeal 2009-006635
Application 09/941,837
Technology Center 2400

Decided: April 30, 2010

Before KENNETH W. HAIRSTON, CARLA M. KRIVAK,
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 to 6, 8 to 11, 13 to 22, 24 to 28, 30, and 31.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

Appellant's invention is concerned with an apparatus and method of displaying broadcast information for a television (Spec. ¶¶ [0001], [0019]-[0022]; Figs. 2, 3). Appellant discloses and claims a method and apparatus for displaying information for a region including information relating to an object in a specific region or interactive region, whereby a user can obtain specific information, such as an Internet Web site or URL, by positioning a cursor within the specific or interactive region. The user is notified by a change in color or shape of the cursor that the specific information is available regarding the object (claims 1, 5, 11, 16, 21, and 25; Abstract).

Claim 1, reproduced below with emphasis added, is representative of the subject matter on appeal:

1. An apparatus for displaying broadcast information of a television comprising:

a broadcast service provider transmitting broadcast signals of each broadcast program including region information and specific information for each region, the region information indicating a region whereby specific information exists and the specific information including a plurality of information data relating to an object included within a specific region; and

a television receiver for receiving the broadcast signals transmitted from the broadcast service provider, video processing the received broadcast

¹ Claims 7, 12, 23, and 29 have been canceled.

signals and displaying them through a screen, and displaying the specific information of a corresponding region when a user selects a certain region on the screen, wherein a position of a cursor is moved over the screen in accordance with movement of an indicating device and the television receiver *changes a shape or color of the cursor when the cursor is positioned within the specific region in which the specific information exists regarding the object within the specific region.* (Emphasis added).

The Examiner relies upon the following as evidence of unpatentability:

Kikinis	US 5,929,849	July 27, 1999
Kitsukawa	US 6,282,713 B1	Aug. 28, 2001
Alba	US 2002/0184627 A1	Dec. 5, 2002

(effective filing date Feb. 27, 1998)

The following obviousness rejections are before us for review:

Claims 1 to 4 and 30 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Kitsukawa and Alba.

Claims 5, 6, 9 to 11, 13 to 22, and 24 to 28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Kikinis and Alba.

Claims 8 and 31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Kikinis and Alba, further in view of Kitsukawa.

In all of the above listed rejections, the Examiner relies upon the secondary reference to Alba as describing the feature of changing a shape or color of a cursor when the cursor is positioned at the edge of a program matrix, thereby indicating that additional information is available to the user (Ans. 4). The Examiner states that Alba teaches that the cursor's configuration is dependent upon the location of the cursor (Ans. 4). The Examiner determines that it would have been obvious to modify the cursor

of either Kitsukawa (as to claims 1 to 4 and 30) or Kikinis (as to claims 5, 6, 8 to 11, 13 to 22, 24 to 28, and 31) to change the configuration depending on the location of the pointer/cursor as taught by Alba “in order to provide an unobtrusive, user-friendly interface to available information” (Ans. 4, 7; *see also* Ans. 11).

Each of the independent claims on appeal recites changing the shape or color of a cursor when the cursor is positioned (i) *within* a specified region in which specific information exists regarding an object within the specified region (*see* claims 1, 16, 21, and 25), (ii) at a location *corresponding to* a region of the screen where specific information exists (claim 5), or (iii) in an area *corresponding to* an interactive image region (claim 11). In other words, each of the independent claims on appeal requires that the changing of the shape or color of the cursor occurs when the cursor is located either *within* a specific/interactive image region or at a location *corresponding to* the specific/interactive image region.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). On the record before us we find no supportive evidence for the Examiner’s assertion (Ans. 4) that Alba teaches the concept of changing cursor shape or color when the cursor is positioned *within* a specific region which is associated with information existing regarding an object within that region as set forth in each of the independent claims on appeal. The portions of Alba relied upon by the Examiner as describing this concept (Fig. 1; ¶¶ [0092]-[0094]) deal with changing the configuration (i.e., shape) of a cursor for indicating

availability of additional information in an electronic program guide (EPG). The additional information is not information *concerning an object* (e.g., the car in Appellant's Fig. 4 in region B), and instead is information occurring in additional information window 512 which relates to EPG navigation (*see* Figs. 10A, 10B). In addition, Appellant is correct (App. Br. 13-14; Reply Br. 2-6) that Alba's cursor 110 only changes shape when it is located at an edge of the program matrix 108, and therefore Alba fails to teach or suggest changing cursor shape when the cursor is located *within* the region containing an object.

Thus, the Examiner has not sufficiently established that Alba discloses or suggests changing the shape or color of the cursor when the cursor is located either *within* a specific/interactive image region or at a location *corresponding* to the specific/interactive image region, as set forth in the claims on appeal. The Examiner has also not sufficiently established that it would have been obvious to modify Kitsukawa (claims 1 to 4 and 30) or Kikinis (claims 5, 6, 8 to 11, 13 to 22, 24 to 28, and 31) to include this missing feature.

Furthermore, the Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *See In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Other than asserting that it would have been obvious to modify the cursor of either Kitsukawa or Kikinis to change configuration depending on the location of the pointer/cursor as taught by Alba to provide an unobtrusive, user-friendly interface to available information (Ans. 4, 7, and 11), the Examiner has not articulated how or why it would have been obvious to locate the cursor

within the specific or interactive image region as set forth in the independent claims on appeal, as opposed to merely *at the edge* of the program matrix 108 as taught by Alba (¶ [0093]). Likewise, the Examiner has not articulated how or why it also would have been obvious to replace the additional information concerning EPG navigation taught by Alba with specific information relating to an object inside a specific region as claimed, when both Kitsukawa (e.g., Fig. 5; *see* col. 7, l. 61 to col. 9, l. 11 describing advertising information regarding object 511 being obtained by using cursor at location 521) and Kikinis (e.g., Fig. 2C; *see* col. 8, ll. 1-64 where web site information about a car in an advertisement can be provided in window 71) describe information concerning objects in a specific region instead of EPG navigation information.

Appellant is correct that Alba, whether taken individually or in combination with Kitsukawa (*see* App. Br. 11-16; Reply Br. 2-3) or Kikinis (*see* App. Br. 16-36; Reply Br. 3-6), fails to teach or suggest changing the shape or color of a cursor when specific information exists corresponding to an object within a specific region of the screen. Accordingly, we will not sustain the Examiner's obviousness rejections of any of independent claims 1, 5, 11, 16, 21, and 25, and we will also not sustain the Examiner's obviousness rejections of dependent claims 2 to 4, 6, 8 to 10, 13 to 15, 17 to 20, 22, 24, 26 to 28, 30, and 31, which ultimately depend from respective independent claims 1, 5, 11, 16, 21, and 25.

In view of the foregoing, we will not sustain the obviousness rejections of claims 1 to 6, 8 to 11, 13 to 22, 24 to 28, 30, and 31 because (i) the Examiner has not established a factual basis to support the legal

conclusion of obviousness (*see Fine*, 837 F.2d at 1073), and (ii) the Examiner's articulated reason for modifying the teachings of Kitsukawa or Kikinis with those of Alba does not support a legal conclusion of obviousness. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007).

The decision of the Examiner to reject claims 1 to 6, 8 to 11, 13 to 22, 24 to 28, 30, and 31 is reversed.

REVERSED

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